

## **RECENT DEVELOPMENT IN THE POLISH ENVIRONMENTAL PROTECTION LAW<sup>1</sup>**

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### **I. SOME REMARKS ON THE APPLICATION OF THE NEW ENVIRONMENTAL PROTECTION LAW.**

Last year a lot of new and important regulations, both acts and amendments to the ones currently in force, were adopted<sup>2</sup>. Most of the new provisions started to be applied last year. Some of them, either the whole act or individual provisions, came into force on 1<sup>st</sup> January 2002<sup>3</sup>, other have been coming into force in the year 2002<sup>4</sup>.

The work on preparing the whole range of executory acts (regulations) to the new environmental protection law is still in progress. So, there are about 200 delegations, more than 40 executory acts which have already adopted, and about 70 projects "under construction".

Also, it should be pointed out that the new binding law is being consulted and comments on its application gathered, which results in drawing out projects concerning amendments of new regulations, mostly aimed at avoiding the formal or editorial doubts. Simultaneously, the projects are also a result of amendments in the Community law.

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<sup>1</sup> Prepared on the basis of publicly accessible documents in the framework of legislative work of the Polish Parliament <http://ks.sejm.gov.pl:8010/proc4/wykazy/ust06202.htm>.

<sup>2</sup> Such as: The Act on the Environmental Protection Law; The Acts on Waste; The Act on Environmental Agriculture; The Act on Packaging and Packaging Waste; The Act on obligations of entrepreneurs in the field of management of selected wastes as well as the Product and Deposit Charge; The Act on Genetically Modified Organisms; The Act on Water Law; The Act on Chemical Substances and Chemical Preparations; The Act on Introducing the Environmental Protection Law Act and Waste Act and on Changes, and further acts.

<sup>3</sup> This concerns provisions regulating the integrated permission, new provisions regarding charges covered by entities using the environment and administrative financial penalty, the new act on packaging and packaging waste, the act on product and deposit charge, among others.

<sup>4</sup> As for example, the Act dated 2nd March 2001 on proceeding with substances that deplete the ozone layer, which came into force on 1<sup>st</sup> July 2002.

## **II. REGULATIONS ADOPTED IN 2002 – FURTHER ADJUSTMENT OF THE ENVIRONMENTAL ACQUIS WITHIN THE POLISH LEGISLATION<sup>5</sup>**

### **1. The Act from 10<sup>th</sup> May 2002 on ratification of Agreement between the European Community and the Republic of Poland concerning the participating of the Republic of Poland to the European Environment Agency and the European Information and Observation Network (the Agreement) - in force**

- Poland has been co-operating with the EEA since 1996; in 2000 the Agreement was signed by both parties;
- The participation of Poland in the Agency is treated as an element of pre-accession strategy; the co-operation with the Agency reflects the state's ability to participate in the activities of the Community institutions, on the one hand, on the other it is a tool for implementing environmental acquis, especially in the area of access to information,
- The Agreement provides that Poland shall fully participate in the Agency and the EIONET; shall contribute financially to the activities of the Agency and the EIONET; shall participate in Agency's organs; shall designate a "national focal point" and establish a national information network and shall provide data, among others. On the other hand, Poland can take advantage of the results of the Agency's activities.
- In Poland, the "national focal Point" acts within the framework of the Main Inspectorate of Environmental Protection due to the statutory competence of the latter. The national information network was established within the framework of the structure of the State Environmental Monitoring and is mainly based on research units participating in the structure of the State Environmental Monitoring.

### **2. The Act from 6<sup>th</sup> June 2002 amending the Act on the Protection of Animals (in force)**

- The aim of the act is to adapt the Polish law to EC legislation in the area of humanitarian protection of the animals (to Directives: 86/609; 88/166; 93/119; 91/629; 91/630; 95/29; 91/628; 98/58 and to Regulation 411/98);
- Due to this aim, the act amends provisions especially regarding the issue of: legal notions, transport of animals, the protection of animals used for experimental and other scientific purposes, the proceeding at the time of slaughter or killing animals and the accommodation requirements of livestock.

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<sup>5</sup> Some of them are included in "environmental chapter of negotiation", others are part of another chapter but their influence on environment is important.

3. **The Act from 26<sup>th</sup> July 2002 on the ratification of the Kyoto Protocol to the United Nations Framework Convention on Climate Changes** (the act was submitted to the President to be signed on 14<sup>th</sup> August 2002)

- the justification for the ratification is Poland's obligation of international character (Poland is a party of the UN Convention on Climate Changes and signed the Kyoto Protocol) on the one hand, and the EU character on the other – there is an obligation that the associated states ratify the protocol (this is treated by the EU as an element of pre-accession strategy);
- The Polish activity on the realisation of both Convention and Kyoto Protocol commitments, is especially expressed by: a) the ongoing works on state climate policy which covers the period till the end of the year 2020; b) preparing annual reports on emissions, c) establishing a Domestic Centre for Listing of the Pollution Emissions within the Institute of the Protection of the Environment; d) the implementation of the Joint Implementation Mechanism e) establishing the Executory Office for the Climate Convention within the Framework of National Funds of the Environmental Protection and Water Management; f) existing legal –economic instruments.
- The ratification needs further legal and factual works – it is necessary to adopt legal means which will enable the realisation of the emission trade mechanism, among others, and enable to adjust Polish law to EU standards<sup>6</sup>.

4. **The Act from 13<sup>th</sup> September 2002 on biocidal products**

- The act adjust Polish law to the EC legislation, Directive 98/8 concerning placing of biocidal product, in the framework of the following main issues: the authorisation and placing on the market for use of Biocidal products; mutual recognition of authorisation (this provision will come into force on the day of acquiring EU membership) and establishing a positive list of active substances which may be used in biocidal products.

5. **The Act from 12<sup>th</sup> September 2002 on transport of dangerous goods** (to come into force on 1<sup>st</sup> January 2003) – negotiation chapter – transport policy

- The act adjusts Polish regulations to the European Agreement concerning the International Carriage on Dangerous Goods by Road (ADR, Geneva 1957) and to the Community legislation which implement the above Agreement (Directives: 94/95; 95/50; 96/35; 2000/18) especially in the area of requirements concerning packaging, labelling, vehicles, supervision and

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<sup>6</sup> The Kyoto Protocol was approved in Council Decision 2002/358/EC concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder.

control of transport by road, including inner control exercised by “safety advisers”.

6. **The Act on 5<sup>th</sup> July 2002 amending the Act on chemical substances and preparations (in force).** The negotiation chapter – the free movement of goods – chemicals
  - the act enables to adjust Polish regulations to the Community legislation in the area of dangerous preparations (Directives: 67/548; 76/769; 88/379; 99/45 and Regulation 793/93) especially in the area of legal notions, classification, packaging and labelling of preparations, evaluation of hazards, including the one to the environment.